https://www.financial-planning.com/news/digital-assets-are-often-overlooked-in-estate-planning

From left: The "Modern Estate Planning: Safeguarding Your Clients' Afterlife in the Cloud" panel at this week's Future Proof Festival in Huntington Beach, California was moderated by Janet Levaux, editor-in-chief of ThinkAdvisor, and featured panelists Dave Haughton Sr., corporate counsel for Wealth.com, and Jamie Hopkins, CEO of Bryn Mawr Trust.

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The most overlooked aspect of estate planning, and how to address it
Advisors may be used to guiding clients through the estate planning process. But, what about less tangible assets, like those stored digitally?

By Rob Burgess
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That was the topic of the "Modern Estate Planning: Safeguarding Your Clients' Afterlife in the Cloud" panel at this week's Future Proof Festival in Huntington Beach, California. Janet Levaux, editor-in-chief of ThinkAdvisor, moderated the session, which featured panelists Jamie Hopkins, CEO of Bryn Mawr Trust, and Dave Haughton Sr., corporate counsel for Wealth.com.

Haughton said people generally don't consider how much of their lives are online and password-protected. For example, a client who dies suddenly could hold cryptocurrency in a digital wallet.

"Let's say that password is stored in a note on their phone," he said. "The phone is locked with a passcode. Then the note itself maybe does two-factor authorization that goes to an email account that also is password protected."

Hopkins said this is a newer challenge that advisors may not have had to think about as much in previous years. He used the example of a newer YouTube star like Mr. Beast.

"His YouTube channel, which is generating hundreds of millions of dollars a year, is a very valuable digital asset," he said.

And with the advent of biometric safety measures — including those that use eyes, faces and thumbprints to unlock — some truly novel scenarios may soon begin to play out on a mass scale.

"What happens when a client passes away and the only way to access their account is through a thumbprint?" he said. "You're going to see people showing up to funeral homes, putting thumbs on the phones to unlock them."

Kashif A. Ahmed, founder and president of American Private Wealth in Bedford, Massachusetts, said many clients have never thought of these digital assets when planning. The will language should allow the executor the authority to work with digital platforms to gain access to digital content, he said.

In the case of Facebook, for example, clients can adjust their settings to declare who can have access to the account, and how long the account can stay open but identified as that of a deceased person. In the case of sensitive data, provisions can be made in the will to direct that such data be destroyed, and confirmation delivered to heirs and the executor.

"Bottom line, most people don't realize and consider digital assets as assets," he said. "This can include pictures uploaded to cloud storage services. Most then agree that such assets should go to their intended heirs, just like tangible assets. It is incumbent on the planner who claims to be a 'comprehensive planner' to in fact address this, and remain engaged with their clients to ensure this is done."

'Final wishes' forms

Planning for the future means considering a client's digital legacy, which Mike Metzger, founder of Lifepoint Financial Design in Salt Lake City, said is often overlooked. He emphasizes sharing digital usernames and passwords with heirs.

To streamline this process, he also offers a Google Sheet filled with prompts for various banks, investment institutions and social media sites. He encourages clients to store this vital information securely in their iCloud or Google Drive, or

within their secure file storage provided by his firm. This is handled within the annual estate planning meeting, and he offers to facilitate that conversation with their beneficiaries.

"A notation within their family trust of the digital footprint or accompanying document is vital to ensure a safeguarded digital legacy," he said.

Dan G. Bennett, founder and financial advisor at Lake Water Advisory in Skaneateles, New York, said he has seen too many families left scrambling for passwords, insurance policies and investment statements. His firm has every client complete a "letter of instruction" packet that lists relevant financial information in case something were to happen to them. This includes contact information for their financial planner, estate attorney, insurance agent and tax preparer; where to find important documents; and assets and liabilities including institutions, account numbers, usernames and passwords.

"It takes some leg work to get this back, but I have found clients who have experienced the disarray of financial documents after the passing of a loved one are usually the ones that complete this packet that fastest," he said.

Benjamin Simerly, founder of Lakehouse Family Wealth in Mentor, Ohio, said he helps clients outline a "final wishes" style document that is separate from the common legal documents like the will, trusts or power of attorney documents.

"This is quickly becoming one of the most important areas of estate planning," he said. "Heirs need to know how the estate is being managed, who is managing it and where to find all the details. We love using a family 'final wishes' document. This document is deliberately designed to be a quick FAQ, completely nonlegally binding and a guide of sorts to the big picture. This way, the family can answer common questions quickly.

Simerly said the another key concern is exactly how assets will transfer, and how the family wishes for them to be used. Most estate plans do not spell out the intent for assets, let alone the digital plan for them.

"Our 'final wishes' documents that we draft over coffee with families detail the online logins, the parent's wishes, how they went about making these decisions and all the contact information for the professionals involved," he said.

Naming a digital executor

MaryAnne Gucciardi, a financial advisor at Wealthmind Financial Planningin Cambridge, Massachusetts, said she advises clients to talk to heirs or their trusted contacts about their wishes to make sure digital assets are a part of their financial and estate plans. That includes naming a digital executor.

Gucciardi said she further recommends using a password manager, purging online cloud storage that holds sensitive data before closing the accounts and writing out wishes for social media accounts.

"Catalog and securely store a list of all your e-commerce accounts with a person named who is responsible for paying the balance, if there is one, and closing the account," she said.

Greg Giardino, a financial advisor with Wealth Enhancement Group in Oakland, New Jersey, said most clients are unaware that Apple has a strict data policy as it relates to the iPhone. Apple prohibits data that is locked via a passcode from being accessed as a result of a loved one's death. It disallows family members and friends from accessing their data without first erasing that iPhone's data.

"This can be problematic because it may hamper one's ability to access a deceased person's online account if they had set up two-factor authorization via text message to their iPhone, and thus the loved one doesn't know their passcode and can't input the code to verify the account," he said.

In order to prevent this from happening, Giardino said they typically advise clients to create a "legacy contact" on their iPhone and other social media accounts. A legacy contact can be named that authorizes a family member access to your iPhone data only in the event of someone's death.

"Once you name a legacy contact, you can share your access key with them and they can produce a copy of your death certificate to Apple to gain access," he said.

Heir access

Having the ability to access these accounts is one matter, but who has the legal right to is another completely.

Giardino said another best practice is to have clients share the password manager password with their families.

"However, it is really important for you and your family members to save this in a secure place," he said. "Depending upon where you store this, you may want to use codes or phrases that only your family would recognize in case the location of this information becomes compromised."

For most family members to access the common account types would be illegal unless someone is a financial power of attorney, Simerly said.

"Ideally, nobody has direct access to any accounts unless they are a financial power of attorney or a professional managing the account," he said. "The other catch is that these accounts usually aren't ever accessed by heirs because, after a parent's death, the accounts are typically split up and put directly into the heir's names. So the heirs won't see accounts labeled 'Parents IRA,' but instead will see 'Heir's Name IRA' and know in their financial plan that the money originated from their parents."

Along with the accounts being directly in an heir's name, at that point it is also in the heirs' control in most scenarios outside of a trust, so the heir is the one choosing where and how the accounts are set up after the death of the parent or loved one, said Simerly.

Nicholas Bunio, CFP at Retirement Wealth Advisors in Downingtown, Pennsylvania, said he recommends advisors and clients speak with an estate planning attorney to properly set up a will that outlines the online accounts, ways to access them and who should have access. He said he recommends keeping an electronic password tracker that's backed up to a cloud instead of using pen and paper. If paper documents are necessary, he said advisors should recommend these be stored in a fire-proof safe.

"You should keep all your passwords and store them safely and let your heirs know where to find these in the event of your passing," he said. "That makes it so much easier for people to get access to your accounts when you pass."